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In re Application of KÜPPER et al
U.S. Application No.: 09/446,808
Int. Application No.: PCT/DE98/01797
Int. Filing Date: 24 June 1998
Priority Date: 24 June 1997
Attorney Docket No.: 4121-115

For: MAMMAL WITH INHIBITION OF THE
POLY (ADP RIBOSE) POLYMERASE AND
METHOD FOR USING SAME TO IDENTIFY
CANCERIGENIC AGENTS

DECISION

This is in response to applicants' "Request for Withdrawal of Erroneous Issue of Notification of Abandonment, Based on Timely Filing of Response to February 23, 2000 Notification of Missing Requirements in U.S. Patent Application No. 09/446,808" filed 26 October 2000, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On 24 June 1998, applicants filed international application PCT/DE98/01797, which claimed priority of an earlier German application filed 24 June 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 30 December 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 January 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 December 1999.

On 23 December 1999, applicants filed national stage papers in the United States. The submission was accompanied by, inter alia, the requisite basic national fee required by 35 U.S.C. 371(c)(1).

On 23 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a

Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed along with a surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 06 October 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned for failure to respond to the Notification of Missing Requirements mailed 23 February 2000 within the time period set therein.

On 26 October 2000, applicants filed the present petition along with a copy of a declaration purportedly filed on 21 July 2000. The petition states that it is accompanied by a copy of a return postcard which lists a declaration in its itemized contents and which bears a USPTO date stamp of 21 July 2000.

DISCUSSION

The declaration originally filed on 21 July 2000 has been located.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment is **GRANTED**.


The Notification of Abandonment mailed 06 October 2000 is hereby **VACATED**.

The application has an international filing date of 24 June 1998 and a date under 35 U.S.C. 371(c) of 21 July 2000.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision, including the preparation and mailing of a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

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